

# Forest Offences in Protected Areas: An Appraisal to Maqasid Shariah in Federal and State Government Relationship

Adzidah Yaakob\*<sup>1</sup> & Intan Nadia Ghulam Khan <sup>1</sup>

<sup>1</sup> Faculty of Syariah and Law, Universiti Sains Islam Malaysia, Bandar Baru Nilai, 71800 Nilai, Negeri Sembilan, Malaysia

\* Corresponding author: adzidah@usim.edu.my

## Abstract

Forest encroachment and illegal logging are statutorily recognised as forest offences under several forest related acts. This is significant in a way it can mitigate adverse loss of major biodiversity, forest environment quality and forest-dependant livelihood. Forest offences and wildlife crime are found to take place within protected area (i.e., permanent reserve forest (PRF), national parks, sanctuaries) and state land forest. Related forest legislation, statistical data of forest offences, wildlife crimes and literatures are analysed to find gaps of the current statutory protection on forest environment. Forest can be found listed under List II (State List) and List III (Concurrent List) in the Ninth Schedule of the Federal Constitution of Malaysia. Due to this fragmentation of jurisdiction of the law-making power, forest is governed by different laws and agencies. Thus, dynamic relationship between state and federal government is significant in ensuring forests that are home for thousands of species of biodiversity, flora and fauna to be safeguarded and protected for future generation to cherish. From the Islamic perspective, the protection of environment in particular forests contribute towards fulfilling Maqasid Shariah. Besides, for the interest of the ummah, Maqasid Shariah encourages good relationship between the federal and state governments.

**Keywords:** *forest offences, wildlife crime, protected areas, forest reserve, forest-dependent, Maqasid Shariah*

## 1.0 Introduction

Forest offences and illegal logging have caused negative impact towards environment, economy and social (Mohd Noor et al., 2021). Government has suffered from short of revenue of forest duty and tax whereas forest-dependent community would be so much affected due to these illegal activities. Other than that, forest ecosystem has also negatively affected from the loss of its biodiversity and natural resources (Mohd Noor et al., 2021). Malaysia as among the timber producer countries and a world leading hardwood exporter (Shikha, 2021) is however subject to Malaysian Criteria and Indicators for Forest Management Certification (MC&I 2002) to provide timber from sustainable forest resources where this certification applies to all states in Peninsular Malaysia. To obtain this forest certification by the MC&I (third party assessor) the forestry departments are required to observe twenty-four forestry-related laws and policies (Adzidah, 2014). This is due to forest-related subject under the Federal Constitution (FC) which falls under State List and Concurrent List of the Ninth Schedule of the FC that has led to the establishment of various jurisdiction of forest-related agencies and departments.

Manuscript Received Date: 09/08/22

Manuscript Acceptance Date: 010/11/22

Manuscript Published Date: 30/11/22

©The Author(s) (2022). Published by USIM Press on behalf of the Universiti Sains Islam Malaysia. This is an Open Access article distributed under the terms of the Creative Commons Attribution Non-Commercial License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited. For commercial re-use, please contact [penerbit@usim.edu.my](mailto:penerbit@usim.edu.my)

doi:<https://doi.org/10.33102/ujj.vol34no3.489>

**Forest Offences in Protected Areas:  
An Appraisal to Maqasid Shariah in Federal and State Government Relationship**

## **2.0 Problem Statement**

Protected area is defined in Convention of Biological Diversity 1992 as “a geographically defined area, which is designated or regulated and managed to achieve specific conservation objectives” (Adzidah, 2017). However, there is no uniform system of protected area practiced in Malaysia as in Peninsular Malaysia alone there are four protected areas covering a total area of 2.98 million hectares managed by different agencies i.e., the Federal Department Peninsular Malaysia and the state forestry department, Federal Department of Wildlife and National Parks, Johor National Parks Corporation and Perak State Park Corporation (Protected Area, 2016). In Sabah, the Sabah Forest Department manages its forest and protected area according to the Sabah Forest Policy 2018 and its Ordinance that consists of managing protection forest reserves, domestic forest reserves, amenity forest reserves, virgin forest reserves and wildlife reserves. Whilst Sarawak is subject to its Forest Ordinance 1958. The Totally Protected Area in Sarawak entails wildlife sanctuaries, nature reserves and national park (Adzidah, 2017). All these protected areas are governed by different laws with varying issues and degree of protection and procedures (United Nations Development Programme [UNDP], 2012).

In 2020, it was reported that sixty-nine individuals including groups of people were detained for forest-related offences in the protected area of the state of Perak alone. Various departments and enforcement agencies were involved in nine integrated enforcement operations i.e., police, Department of Wildlife and National Parks, Road Transport Department, National Anti-Drugs Agency and Malaysian Anti-Corruption Commission. They were detained for perpetrating forest offences under the National Forestry Act 1984 [Act 313] i.e., carrying out activities in the permanent forest reserves (PFR) without authorization, entering the PFR without permission and taking out forest produce without the removal pass (Malay Mail, 2020).

## **3.0 Literature Review**

### **3.1 Forest in Protected Area under Federal Constitution of Malaysia and Malaysian Law**

Malaysia is recognised as one of the 17 mega-diverse biodiversity countries in the world. Its terrestrial and marine areas with distinctive species of flora and fauna that many of it could not be found in other regions (UNDP, 2012). The species of flora and fauna are estimated to contain about 15,000 species of vascular plants, 306 species of mammals, 742 species of birds, 242 species of amphibians, 567 species of reptiles, over 449 species of freshwater fish, over 500 species of marine fish, more than 150,000 species of invertebrates including many endemics (UNDP, 2012, CBD, 2021). The world’s oldest forest of Taman Negara is also located in Malaysia that estimated to be more than 130 million years of age and other countless of national heritage (Clean Malaysia, 2015).

The basis of forest and protected area jurisdiction is laid down under the FC. This shows the government’s commitment and aspiration to safeguard forest and protected areas in a form of two broad categories of protected area i.e., Wildlife Protected Area which is governed by the Federal Department of Wildlife and National Park (DWNP) and Permanent Reserve Forest (PRFs) that is governed by the Forestry Department Peninsular Malaysia (FDPM) (UNDP, 2012, Adzidah, 2014). All these departments are under the monitoring of the Ministry of Energy and Natural Resources.

Forest that is under the category of Permanent Reserved Forest (PRF) in Peninsular Malaysia is regulated by the National Forestry Policy 1978 (Revised 1992) and the National Forestry Act 1984 [Act 313]. Whereas wildlife protected area is managed according to the National Parks Act [Act 226], the Wildlife Conservation Act 2010 [Act 716] and the International Trade in Endangered Species Act 2008 [Act 686]. Besides these, there are several other policies that are mostly related to PRF and protected areas, for instance the Third National Agricultural Policy (1998-2010), the National Policy on Biological Diversity 1998 and the National Policy on the Environment 2002, the National Cyber Security Policy, National Mineral Policy 2, 2009, the Malaysian Plans and the National Physical Plan. There are also other related laws and policies due to the rising of level of awareness among the public and the policy makers (Adzidah, 2014).

Forest in protected areas are subjects listed under the Legislative Lists in the Ninth Schedule of the FC and falls under the List II-State List and List III-Concurrent List. As regard to the State List (Table 1), it is crucial to note that forest is subject to the states government’s power. Even though forest is subject to the states’ power and control, the federal government also has power over forest for the purpose of

uniformity, providing financial and technical advice. Thus, states need to conform to any efforts towards uniformity exercised by the federal government (Article 76(1)(b) of the FC) even though it will affect the states' forest planning. Nevertheless, it is up to state governments' legislatures to make laws regarding forest within their territory (Article 74(2) of the FC). Article 77 of the FC also gives residual legislative powers to the states; however, this provision is peculiar in the sense of the extent to which the provision works as most of the final decisions are under the federal government's control (Abdul Aziz Bari & Farid Sufian Shuaib, 2006). Even though there is a provision in the FC (Article 76(3)) that gives state governments options on whether to adopt legislation passed by the Parliament or otherwise, state governments are seen to adopt it for instance the forest act, policy and the amended provision that are never being contested or rejected by the state government (Adzidah, 2014).

Pertaining to the Concurrent List of the FC, protected area-related subjects are listed in the Table 1 below. Hence, both federal and state governments have jurisdiction to make laws as conferred by the FC under Article 74(1) and (2).

**Table 1. Forest in protected area-related subject under the State List (List II) and Concurrent List (List III) of the Federal Constitution of Malaysia**

Provision in the FC	Item
State List	
3. Except with respect to the Federal Territories of Kuala Lumpur, Labuan and Putrajaya, agriculture and forestry, including— (a) Agriculture and agricultural loans; and (b) Forests.	3
Concurrent List	
Protection of wild animals and wild birds; National Parks	3
Town and country planning	5
Drainage and irrigation	8
Rehabilitation of mining land and land which has suffered soil erosion	9

Thus, based on the prescribed provision of the Federal Constitution the federal and state government should exercise their role and function. The civil servant also in exercising their duties and gives advice to stakeholders need to understand about the power and duties of the respective governments (Tunku Sofiah Jewa et al., 2007).

### 3.2 Forest Offences and Wildlife Crime in Protected Area under the Malaysian Law

There are several provisions under the National Forestry Act 1984 (Act 313) that highlight forest offences through prohibition, licensing-related offences and special provision on offences. Table 2 below shows list of forest offences occurred within protected area of PRF from 2011-2016 (Fazilah & Michael, 2017).

**Table 2. Forest Offences under Act 313 1984 from 2011-2016**

Section	Provisions of Forest Offences under Act 313
15	Taking of forest produce from permanent reserved forest or State land without license
32	Occupy or carry out any activity upon any land within a permanent reserved forest without permit
47	Enter any closed forests without permission
68	Possession, custody or control any forest produce without removal pass
69 (1)	Converting any forest produce or have in his control or charge a conversion plant without a removal pass and a record of measurement
81(1)(b)	Fell, cut, ring, mark, lop or tap any tree; or injure by fire or otherwise, or remove any tree or timber;
81(1)(d)	Search for, collect, subject to any manufacturing process or remove any forest produce or minerals;
81(1)(e)	Clear or break up any land for cultivation or any other purpose in forest reserve;
84	Possession, custody or control on any forest produce on which royalty, premium, cess or other charges in respect of such forest produce has not been paid

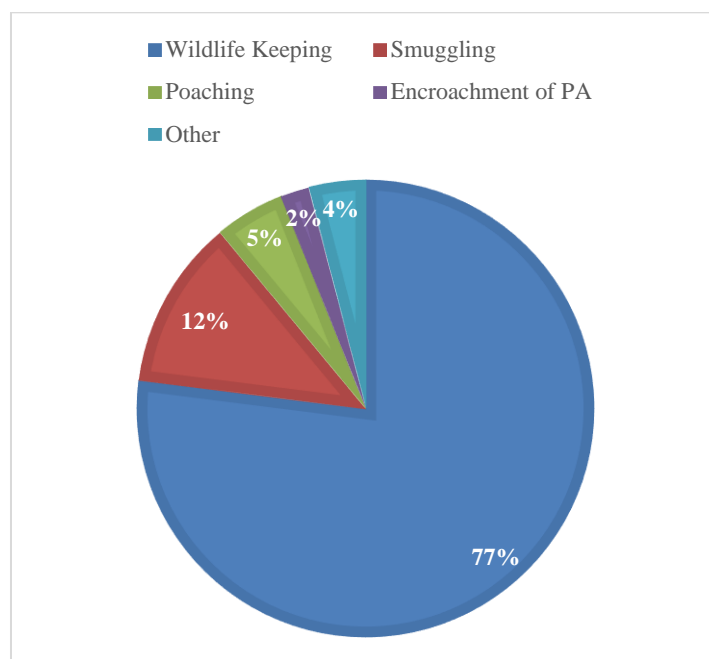
Wildlife crime is listed under Part VII of the Wildlife Conservation Act 2010 (Act 716) among others, lists offences relating to licenses, permit and special permit i.e., hunting protected wildlife without license,

**Forest Offences in Protected Areas:  
An Appraisal to Maqasid Shariah in Federal and State Government Relationship**

operating zoo without permit, hunting totally protected wildlife without special permit etc. This involves wildlife-based activities such as operating zoo, exhibitions, breeding, business and hunting. The Act also protects 2,142 species involving local and exotic species (Salman, 2017).

The numbers and types of conviction of these wildlife crime cases can be seen in Figure 1 below (Salman, 2017). It clearly shows that the highest in number and type of conviction is the offence of wildlife keeping. Obviously, the level of awareness is still low as to the prohibition of keeping the wildlife and it is apparent that, the case relating to wildlife keeping is the highest number in conviction compared to other type of cases.

**Figure 1. Number & Type of Conviction for Offenders (2011-July 2017)**



Regarding the crime of encroachment of protected area that has affected so much loss as to biodiversity within it, the government implemented 1Malaysia Biodiversity Enforcement Operation Network (1MBEON) in 2014 to enhance the enforcement strategy. Through 1MBEON, the DWNP and the Malaysian Armed Forces (ATM) have worked together in preventing encroachments and extraction of the country’s biodiversity resources especially by foreigner (TheSundaily, Nov 7, 2016). Table 3 below shows the number of operation and arrests of foreign nationals involving the offence or crime of encroachment. From the table, the arrest made in 2017 is the highest compared to the previous years and involved the highest arrest of locals and Indonesian. The encroachment cases are *inter alia* installation of snares, tree marking, leftover foods, cutting trees, equipment installation and others. The losses of biodiversity involving agarwood, timber/wood and poaching in Taman Negara alone are estimated to be RM14.6 million annually. There are also reported case of wildlife cybercrime committed by locals and foreigner trading the protected species under the Act 716 through social media i.e., Facebook, Instagram, WhatsApp, Telegram etc. that involved confiscated value of tens of thousands ringgit (Salman, 2017).

**Table 3. Forest Encroachment Cases – Operation and Arrest (2014-2017)**

LOCATION	2014	2015	2016	2017
TAMAN NEGARA NATIONAL PARK	6	6	6	6
ENDAU-ROMPIN NATIONAL PARK	-	3	3	2
ROYAL BELUM STATE PARK	-	3	3	2
KRAU WILDLIFE RESERVE	-	-	-	2
<b>TOTAL OF OPERATION</b>	<b>6</b>	<b>12</b>	<b>12</b>	<b>12</b>

ARRESTED	2014	2015	2016	2017
LOCALS	0	33	17	51
VIETNAM	13	4	2	0
CAMBODIA	6	14	0	8
THAILAND	0	0	1	2
INDONESIAN	0	0	0	11
OTHERS	0	0	0	3
<b>TOTAL</b>	<b>19</b>	<b>51</b>	<b>20</b>	<b>72</b>

\*All illegal foreigners were sentenced to imprisonment between 3 to 15 months

#### 4.0 Methodology

This article adopts qualitative method by using doctrinal research. Related forest legislation, statistical data of forest offences, wildlife crimes and several literatures are examined and analysed to find gaps of the current statutory protection on forest and its environment. For Islamic perspectives on the protection of environment in particular forests, respective literatures on the principles of Maqasid Shariah are explored and highlighted.

#### 5.0 Result and Discussion

##### 5.1 Are There Any Gaps in The Existing Laws?

As mentioned before, the FC provides for source of power to both of federal and state governments in Peninsular Malaysia to make laws in relation to forest and protected area. This has led to creation of numbers of Act and Enactment related to forest and protected area which mandated various departments and agencies to govern and manage forest and protected area. The long list of related legislation appears suffice. However, the statistical data and numbers of forest offences in Table 4 (Mohd Nizum & Abd. Ramlizayahudin, 2017) and wildlife crime in Table 5 (Salman, 2017) suggest otherwise. It could be an indication that the deterrence aims of punishments provided under the act is ineffective or there might be gaps in the existing laws that needs considerable thoughts and attention.

**Table 4. Numbers of Forest Offences in Peninsular Malaysia**

FOREST TYPE	YEAR						
	2011	2012	2013	2014	2015	2016	2017 (Aug)
<b>PRF</b>	145 *(19)	158 *(7)	144 *(2)	150 *(1)	143 *(12)	175 *(10)	110 *(2)
<b>SLF</b>	25 *(5)	31 *(1)	10	18	16	22 *(1)	11 *(1)
<b>TOTAL</b>	170 *(24)	189 *(8)	154 *(2)	168 *(1)	159 *(12)	197 *(11)	121 *(3)

\*Illegal logging

PRF- Permanent Reserved Forest

SLF- State Land Forest

Table 5 below shows from 2011 to July 2017, there are 6,475 wildlife crime cases in protected area, in which the highest number of cases were reported in 2015 (Salman, 2017). The reported wildlife crimes are among others; poaching, smuggling, encroachment, illegal trade/possession and cybercrime. The number of cases is seen to reduce to 899 cases in 2017. This indicates relentless efforts by the relevant authorities in curbing the wildlife crime cases within the protected areas. Even though the penalties under the Act 716 have been strengthened, it is pointless if the punishment is remained unenforced. In 2017, two locals were sentenced to fine RM300,000 and 6 months imprisonment, in default of 2 years' jail for committing an offence under section 68 of the Act 716. Both were found inside the forest reserve in Tembeling, Pahang in possession of the head and body parts of an illegally hunted serow, an antelope-like animal which is listed under the IUCN's Red List of Threatened Species. They failed to pay the fine and were sent to Bentong Prison (Clean Malaysia, 2017). They later made an appeal, and the High Court judge dismissed the fine of RM300,000 for each charge and replaced the same with a fine of RM100,000 in failure, 6 months' imprisonment; and the two-year imprisonment term was maintained (*Azmi bin Ismail & Anor v PP*, 2019). Stricter approach in punishing the wildlife offender is crucial to show seriousness in protecting our threatened and endangered species of flora and fauna for future generation to appreciate.

**Forest Offences in Protected Areas:  
An Appraisal to Maqasid Shariah in Federal and State Government Relationship**

**Table 5. Wildlife Crime Cases in 2011 – July 2017**

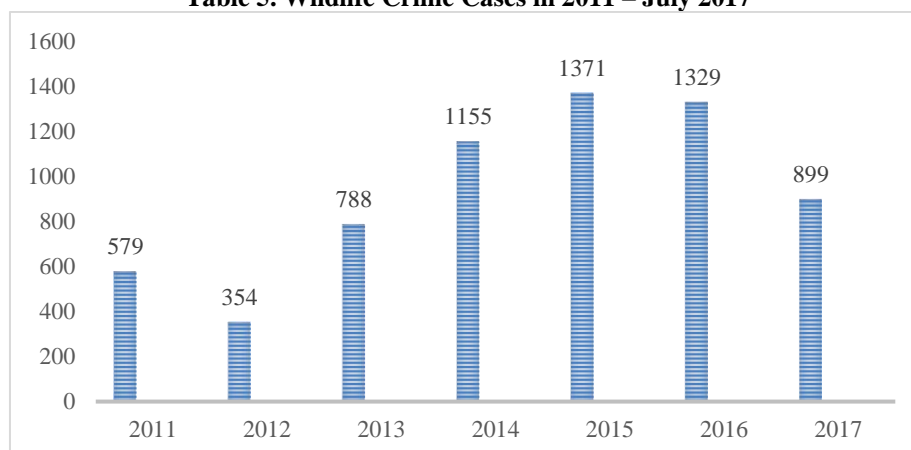


Table 6 below reveals possession, custody or control any forest produce without removal pass provided under section 68 of Act 313 is the highest type of case prosecuted from 2011 to 2016 (Fazilah & Michael, 2017). Section 68 provides for punishment of a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both. Whilst section 15 of the Act 313, provides for maximum penalties of a fine not exceeding five hundred thousand ringgit and to imprisonment for a term which shall not be less than one year but shall not exceed twenty years, however, shows four prosecuted cases only from 2011-2016. Eventually, this indicates the offence of taking of forest produce from permanent reserved forest or state land without license as provided under section 15 of the Act 313 is difficult to be established. Another concern is the word ‘take’ under the section 15 suggests the offender needs to be caught red-handed while taking the forest produce where this is almost impossible with the current system and technology. Furthermore, this is very challenging as the offender would manipulate the gaps in law by removing their related machineries to the other land to escape liability (Mohd Noor et al., 2021).

Another concern is that the regulations are regularly enforced but are not fully effective as the external threats are seen reduced in numbers of cases, but it is difficult to be eliminated (UNDP, 2012). This suggests the need for related departments and agencies to increase and empower their workforce.

**Table 6. Numbers of Prosecution of Forest Offence (Act 313) 2011-2016**

Section	68	84	81	47	15	32	69
No. of cases	33	13	11	8	4	2	2

UNDP (2012) recommended for Peninsular Malaysia to have uniform system of wildlife protected areas to achieve biodiversity conservation goals which also have a direct impact on protection forest of PRFs. Besides that, it is important to ensure effective protected areas management system through performance-based financing structure. Nonetheless, changes in political leadership may affect the priorities of protected area project and its financial budget.

Concerning to the three National Parks i.e., Royal Belum State Park, Perak, Endau-Rompin National Park, Johor and Taman Negara National Park, principal perceived threats to these protected area were identified for instances; hunting, killing, & collecting terrestrial animals (including killing of animals as a result of human/wildlife conflict), gathering terrestrial plants or plant products (non-timber), fishing, killing & harvesting aquatic resources, isolation from other natural habitat (e.g. deforestation, dams without effective aquatic wildlife passages), loss of keystone species (e.g. top predators, pollinators etc.), loss of cultural links, traditional knowledge and/or management practices (UNDP, 2012). The forest-dependant community particularly would also suffer due to these perceived threats. Other than that, the governing authorities facing the operational issues and risks i.e., understaffed, underfinanced etc. Apparently, all those perceived threats would possibly pose a challenge towards the governing authorities and related stakeholders to manage forest and protected area within the existing system.

## 5.2 Forest Offences in Protected Area under the Islamic Perspective

Despite the fact that Islam does not have a distinct environmental philosophy, it emphasises the individual's relationship with God, other living beings, nature, and the universe which are on the ethical traditions of the Quran and the preaching and conduct of Prophet Mohammad (SAW) (Shakeel Ahmad, 2020). The Quran contains verses requiring believers to protect and mitigate environmental damage. It also encourages believers to nurture nature rather than exploit it unless absolutely necessary (Shakeel Ahmad, 2020). Thus, the Islamic view of the environment is based on the concept that Allah is the universe's Creator and Sustainer. Allah has created the entire universe, with all of its component with *hikmah*. The quantity, the number and the quality of these elements is influenced by the divine design and each factor has a specific function. In this regard, Allah says in the Holy Qur'an:

الَّذِينَ يَذْكُرُونَ اللَّهَ قِيَامًا وَقُعُودًا وَعَلَىٰ جُنُوبِهِمْ وَيَتَفَكَّرُونَ فِي خَلْقِ  
السَّمَوَاتِ وَالْأَرْضِ رَبَّنَا مَا خَلَقْتَ هَذَا بَطْلًا سُبْحَانَكَ فَقِنَا عَذَابَ  
النَّارِ ﴿١٩١﴾

“Men who celebrate the praises of Allah, standing, sitting, and lying down on their sides, and contemplate the (wonders of) creation in the heavens and the earth, (With the thought): "Our Lord! not for naught Hast Thou created (all) this! Glory to Thee! Give us salvation from the penalty of the Fire” (A-li ‘Imraan 3: 191). Allah has provided a measured quantity of environmental resources to sustain His creation, matching the overall demand for resources in the universe. This suggests that the natural ecosystem has achieved environmental equilibrium (Ashtankar, 2016). Allah says in Holy Qur'an:

مَا خَلَقْنَا السَّمَوَاتِ وَالْأَرْضِ وَمَا بَيْنَهُمَا إِلَّا بِالْحَقِّ  
وَأَجَلٍ مُّسَمًّى وَالَّذِينَ كَفَرُوا عَمَّا أُنذِرُوا مُّعْرِضُونَ ﴿٣﴾

“We created not the heavens and the earth and all between them but for just ends, and for a Term Appointed: But those who reject Faith turn away from that whereof they are warned” (Surah Al-Ahqaaf 46:3).

Hence, the protection of Allah's creation is thus a Muslim's responsibility, and Allah blesses people who care for the environment (Muhammad, 2004). Forestry and greening the earth by planting trees and farming are among the cornerstones of Islamic environmental conservation. Allah's blessings on His creation include the means to plant trees and cultivate crops as signified on the Holy Qur'an (Ali Ali Gobaili et al., 2017). Allah says:

وَهُوَ الَّذِي أَنْزَلَ مِنَ السَّمَاءِ مَاءً فَأَخْرَجْنَا بِهِ ذَبَاتٍ كُلِّ شَيْءٍ فَأَخْرَجْنَا  
مِنْهُ خَضِرًا نُخْرِجُ مِنْهُ حَبًّا مُتَرَاكِبًا وَمِنَ النَّخْلِ مِن طَلْعِهَا قِنْوَانٌ دَانِيَةٌ  
وَجَنَّاتٍ مِّنْ أَعْنَابٍ وَالزَّيْتُونَ وَالرُّمَّانَ مُشْتَبِهًا وَغَيْرَ مُتَشَبِهٍ نَّظُرُوا  
إِلَى ثَمَرِهِ إِذَا أَثْمَرَ وَيَنْعِهِ إِنَّ فِي ذَٰلِكُمْ لَآيَاتٍ لِّقَوْمٍ يُؤْمِنُونَ ﴿٩٩﴾

“It is He Who sendeth down rain from the skies: with it We produce vegetation of all kinds: from some We produce green (crops), out of which We produce grain, heaped up (at harvest); out of the date-palm and its sheaths (or spathes) (come) clusters of dates hanging low and near: and (then there are) gardens of grapes, and olives, and pomegranates, each similar (in kind) yet different (in variety): when they begin to bear fruit, feast your eyes with the fruit and the ripeness thereof. Behold! in these things there are signs for people who believe” (Al-An'aam 6:99).

**Forest Offences in Protected Areas:  
An Appraisal to Maqasid Shariah in Federal and State Government Relationship**

The Prophet Muhammad (SAW) placed a high value on planting trees, protecting existing ones, planting forests, and conserving existing ones in both his practises and his Hadiths (Muhammad, 2004). It is reported that the Prophet (SAW) was extremely concerned about forest protection, particularly near large population centres like Mecca and Medina (Kula, 2001). The Prophet (SAW) also established inviolable zones known as hima and haram, in which resources were to be left unspoiled in order to safeguard land, woods, and wildlife (Muhammad, 2004).

The environmental protection including forests and wildlife contributes towards fulfilling Maqasid Shariah. According to Jasser Auda (2011), “Maqasid Al-Shariah (the higher purposes and intents of Islamic law) is a system of values that could contribute to a desired and sound application of the Shariah”. There are five important maqasid, namely life, intellect, faith, lineage, and property. These are seen as absolute conditions for an individual's survival and spiritual well-being, to the point that their destruction or collapse would result in the collapse of society's regular order (Mohammad Hashim Kamali, 1998).

The protection the environment contributes towards the protection of faith, the protection of life, the protection of the intellect, the protection of lineage and the protection of property. According to Nur Hidayah Abdul Jabar et.al. (2015), Muslims must safeguard the environment because it is equivalent to protecting their faith in God. The sin of destroying the environment causes imbalance and disharmony, which disrupts the peaceful relationship between Muslims and God. Besides that, it is critical that the environment be maintained in order for mankind to continue to survive. This is due to the fact that humans are an integral part of the environment. The environment has enormous potential as a learning environment for humans. By monitoring his surrounds, the environment provides a vital avenue for mankind to improve his knowledge and intelligence. The environment is also an instrument for human civilization's advancement. In addition to that, when life is threatened as a result of environmental issues, the fourth goal of maqasid al-shariah, which is to protect lineage, is jeopardised. As such, the protection of environment against forest offences and wildlife crime must be carried out in accordance with Maqasid Shariah. Protection of religion under Maqasid Shariah also promotes good relationship among the authorities for the sake of the ummah.

In regard to deforestation, unrestricted forest cutting and other damaging activities have been labelled as hypocrisy and contrary to Islamic principles (Abad & Ayaz, 2016). Planting trees is strongly encouraged in Islam, and men are encouraged to protect them to the point that planting a tree is considered an act of worship. Furthermore, as the vicegerent of God on the earth, men must feel responsible for preservation and enhancement of natural resources

Hence, unnecessary cutting or damage of plants and trees is prohibited in Islam (Ashtankar, 2016) as clearly indicated in a Hadith. Abdullah ibn Habashi reported that Prophet Muhammad said: “He who cuts a lote-tree [without justification], Allah will send him to Hellfire” (Abu Dawud).

## **6.0 Conclusion**

In combating forest offences and wildlife crime, relentless efforts have been successfully made by the respective governing authorities to ensure biodiversity living within the forests and protected areas can be sustained for more years to come. The Federal Constitution has provided power and jurisdiction for the federal and state governments to make law in relation to forest and protected area. Hence, the existing system of forest and protected areas are seen to be patchy and fragmented. Thus, there is a need of a uniform system of forest and protected area to ensure the national agenda of biodiversity conservation goals can be achieved. In the current system, the goals can still be achieved but not to the fullest achievement.

Thus, there is a need to improve the existing system by empowering related agencies and departments of forest and protected area particularly on technical, financial advice and the workforce. Besides that, since the existing systems of forest and protected area are internalised within the respective departments and agencies, there is a need to strengthen the coordination and harmonisation in national level. Hence, Act 313 that is now being tabled in the Parliament for several amendments to improve the existing forest issues is promising. Overall, this constitutionally established relationship is critical for both the federal and state governments to understand and follow, as it is in line with the protection of religion under Maqasid Shariah, which fosters good relations between the two for the sake of the ummah. Besides, the protection of environment against forest offences and wildlife crime must be carried out in accordance with Maqasid Shariah.



### Acknowledgement

The authors would like to express their appreciation to Universiti Sains Islam Malaysia for funding this research under the research grant code: PPPI/UGC\_0119/FSU/051000/13619.

### References

- Abdul Aziz Bari and Farid Sufian Shuaib. (2006). *Constitution of Malaysia: Text and Commentary* (2<sup>nd</sup> ed.) Petaling Jaya: Prentice Hall. See *Ketua Pengarah Jabatan Alam Sekitar & Anor v. Kajing Tubek & Ors and Other Appeals* [1997] 3 MLJ 23, CA.
- Ali Ali Gobaili Saged, Thabet Ahmad Abu Alhaj, Mohd Yakub Zulkifli Bi. (2017). The role of the Maqās, id al-Sharī'ah in preserving the environment. *Humanomics*, 33 (2), 125-132.
- Abad-ur-Rahman & Ayaz, M. (2016). Sustainable Conservation of Forests: Islamic Guidelines. *Dialogue (1819-6462)*, 11(4).
- Adzidah Yaakob. (2014). *A Legal Analysis on Law and Policy on Conservation of Forest in Peninsular Malaysia*. (PhD Thesis). University of Malaya, Kuala Lumpur, Malaysia.
- Adzidah Yaakob. (December 6, 2017). Seminar Environmental Law Awareness: Forest at Heart. *What Do You Need to Know About Protected Area in Malaysia?* PowerPoint Presentation.
- Ashtankar, O. M. (2016). Islamic perspectives on environmental protection. *International Journal of Applied Research*, 2(1), 438-441.
- Azmi bin Ismail & Anor v PP [2019] 7 MLJ 45.
- Clean Malaysia. *Let us Report Wildlife Crimes*. (2017, June 29). Retrieved from <https://cleanmalaysia.com/2017/06/29/let-us-report-wildlife-crimes/>
- Clean Malaysia. *5 Reasons Malaysia's Wildlife Conservation Act is one of History's Most Important Wildlife Regulations*. (2015, August 28). Retrieved from <https://cleanmalaysia.com/2015/08/28/5-reasons-malaysias-wildlife-conservation-act-is-one-of-historys-most-important-wildlife-regulations/>
- Convention on Biological Diversity [CBD]. Retrieved from <https://www.cbd.int/countries/profile/?country=my>
- Fazilah Binti Mansor & Michael B Maijohn. (2017, November 2). UNDP/GEF-GOM Project: Improving Connectivity in the Central Forest Spine Landscape. The Executive Talk: Combating Wildlife and Forestry Crime. *Introduction to the National Forestry Act 1984 [Act 313] Experiences and Lesson Learnt from Previous Crime Cases*. PowerPoint presentation.
- Hashim Kamali. (1998). *Principles of Islamic Jurisprudence*. (2<sup>nd</sup> Revised ed.). Kuala Lumpur: Ilmiah Publishers Sdn. Bhd.
- Jasser Auda. (2011). A Maqāsidī approach to contemporary application of the Sharī'ah. *Intellectual Discourse*, 19(2). Retrieved from <https://journals.iium.edu.my/intdiscourse/index.php/id/article/view/231>
- Kula, Erhun. (2001). Islam and environmental conservation. *Environmental Conservation*. 28. 1 - 9. 10.1017/S0376892901000017.
- Malay Mail. *69 Detained by Perak Forestry Dept for Various Offences in 2019*. (January 16, 2020). Retrieved from <https://www.malaymail.com/news/malaysia/2020/01/16/69-detained-by-perak-forestry-dept-for-various-offences-in-2019/1828659>
- Mohammad Ali Shomali. (2008). Aspects of Environmental Ethics: An Islamic Perspective. Retrieved from [http://www.thinkingfaith.org/articles/2008\\_1111\\_1.htm](http://www.thinkingfaith.org/articles/2008_1111_1.htm)
- Mohd Nizum bin Mohd. Nor & Abd. Ramlizauyahudin bin Mahli. (2017, November 2). UNDP/GEF-GOM Project: Improving Connectivity in the Central Forest Spine Landscape. The Executive Talk: Combating Wildlife and Forestry Crime. *Forest Crime and Its Challenges in Peninsular Malaysia*. PowerPoint Presentation.
- Muhammad Muinul Islam. (2004). Towards a Green Earth: An Islamic Perspective. *Asian Affairs*, 26 (4), 44-89.
- Mohd Noor, M. H., Kadir, R., & Muhamad, S. (2021). Perceived effectiveness of Punishments for forest offences. *UUM Journal of Legal Studies*, 12(2), 41-60. <https://doi.org/10.32890/uujls2021.12.2.3>
- Nur Hidayah Abdul Jabar, Zul Ilham, Shaikh Mohd Saifuddeen & Noor Naemah Abdul Rahman. (2015). *Green Energy towards Sustainability from the Islamic Perspectives*. *International Journal of Sustainable Future for Human Security*, 3 (2): p 31-34.

**Forest Offences in Protected Areas:  
An Appraisal to Maqasid Shariah in Federal and State Government Relationship**

- Protected Areas. (2016). Retrieved from <https://www.wildlife.gov.my/index.php/en/2016-04-11-03-50-17/2016-04-25-02-12-43/kawasan-perlindungan>
- Salman bin Saaban. (2017, November 2). UNDP/GEF-GOM Project: Improving Connectivity in the Central Forest Spine Landscape. The Executive Talk: Combating Wildlife and Forestry Crime. *Wildlife Crime in Peninsular Malaysia – Status and Challenges*. PowerPoint Presentation.
- Shakeel Ahmad. (2020). The Islamic Perspective of Environment. *Aut Aut Research Journal*, XI (XII), 381-388.
- Shikha Kesari. (2021). *World's Largest Timber Producing Countries*. Retrieved from <https://www.geographynotes.com/timber/worlds-largest-timber-producing-countries-geography/5521>
- The Sundaily. (November 7, 2016). *National Biodiversity Resources Under Threat*. Retrieved from [https://direktori.mampu.gov.my/images/pemantauan-media/10\\_Ogos\\_National\\_biodiversity\\_resources\\_under\\_threat.pdf](https://direktori.mampu.gov.my/images/pemantauan-media/10_Ogos_National_biodiversity_resources_under_threat.pdf)
- Tunku Sofiah Jewa, Salleh Buang and Yaacob Hussain Merican. (Eds.) (2007). Tun Mohamed Suffian's an Introduction to the Constitution of Malaysia (3<sup>rd</sup> ed.) Petaling Jaya: Pacifica Publications.
- United Nations Development Programme [UNDP]. (2012). Project Document. Enhancing Effectiveness and Financial Sustainability of Protected Areas in Malaysia.

**Statutes:**

- Laws Of Malaysia Federal Constitution, The Commissioner Of Law Revision, Malaysia Under The Authority Of The Revision Of Laws Act 1968 In Collaboration With Percetakan Nasional Malaysia Bhd 2006.
- The National Forestry Policy 1978 (Revised 1992), Approved by the National Forestry Council on 19 April 1978, Malaysia, Forestry Department Peninsular Malaysia.
- Laws of Malaysia The National Forestry Act 1984 [Act 313].
- Laws of Malaysia The National Parks Act [Act 226].
- Laws of Malaysia The Wildlife Conservation Act 2010 [Act 716].
- Laws of Malaysia The International Trade in Endangered Species Act 2008 [Act 686].
- The Third National Agricultural Policy (1998-2010), Ministry of Agriculture Malaysia.
- The National Policy on Biological Diversity, Approved on 16 Apr. 1998, the Ministry of Science, Technology and the Environment, Malaysia.
- The National Policy on the Environment, Approved on 2 Oct. 2002, Ministry of Science, Technology and the Environment, Malaysia.
- The National Policy on Cyber Security, Ministry of Science, Technology and Innovation.